

### **REMARKS**

Entry of the foregoing, reexamination and reconsideration of the subject application, as amended, pursuant to and consistent with 37 C.F.R. § 1.112, are respectfully requested in light of the remarks which follow.

#### **I. Examiner Interview**

Applicants would like to thank the Examiner for the interview with Applicants' representative on January 7, 2009. During the Interview, the participants discussed the pending claims, the Amendment and Reply filed November 21, 2008, and additional amendments to the claims that may place the claims in condition for allowance. The Examiner's helpful comments and suggestions are greatly appreciated.

#### **II. Claim Amendments**

Further to the interview, and in response to the Office Action dated February 10, 2009, Applicants submit the foregoing amendments to claims 1, 2, 5, and 14-16. In particular, claim 1 has been amended by deleting the alternative method for determining the absolute number of CD4+ lymphocytes (*i.e.* by counting the CD4+ lymphocytes directly without first counting the CD45+ cells) that was added in the November 21, 2009 Amendment and Reply. Claims 2, 5, and 15-16 have been amended to correspond to claim 1. In addition, claim 1 has been further amended to clarify that the proportion of CD45+ white blood cells which are CD4+ lymphocytes is determined for the CD45+ cells *in the cell sample*. Claim 15 has been amended to recite that step a) is performed using a hematology analyzer. Finally, claim 16 has been amended to recite that the cell sample is whole unlysed blood, unfractionated, fractionated or lysed whole blood, and that the absolute number of CD45+ white blood cells in the cell sample is determined in step a) per volume of whole unlysed blood, unfractionated, fractionated or lysed whole blood.

The amendments to the claims have been made without prejudice or disclaimer to any subject matter recited or canceled herein. Applicants reserve the right to file one or more continuation and/or divisional applications directed to any canceled subject matter. No new matter has been added, and entry of the foregoing amendments to the above-identified application is respectfully requested.

**III. Response to Claim Rejections Under 35 U.S.C. § 112, Second Paragraph**

Claims 1, 2, 5, and 14-16 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

To expedite prosecution in the present application, and not to acquiesce to the Examiner's rejection, the claims have been amended as described above.

Applicants respectfully submit that the claims as amended particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Thus, Applicants respectfully request reconsideration and withdrawal of this rejection.

**CONCLUSION**

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order. Such action is earnestly solicited.

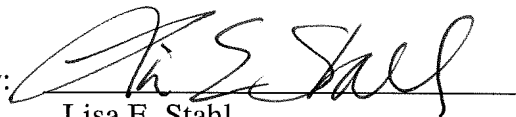
In the event that there are any questions relating to this Amendment and Reply or the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney so that prosecution of this application may be expedited.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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By:



Lisa E. Stahl

Registration No. 56,704

**Customer No. 21839**  
703 836 6620